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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,489	03/23/2001	George Harry Hoffman	41556/04019 (RSI1P031)	5369
22428	7590	06/28/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ZEENDER, FLORIAN M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,489

Applicant(s)

HOFFMAN ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8,12-14 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,12-14 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04122004, 06082004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 6-8, 12-14, and 18-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In each independent claim, line 1, the terminology, "an unsolicited offer function" is not support by the original specification.

In each independent claim, paragraph (b), the terminology, "suppliers that have been pre-screened by an independent supply chain manager based on a criteria" does not appear to be supported by the original specification.

In each independent claim, paragraph (e), the terminology, "at a time not related to an auction schedule" does not appear to be supported by the original specification.

Claim Rejections - 35 USC § 103

Claims 1-2, 6-8, 12-14, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. in view of the cited "Production and Operations Management" manual and Salvo et al. '271.

Shavit et al. disclose, or inherently teach, all of the limitations of the claims including: supply chain communication between independent stores, distributors, suppliers, and third party agents/managers using a network interface including the Internet; allowing pre-screened (see for example Col. 9, lines 42+) suppliers access to data; allowing multiple suppliers to display, offer, and advertise products based on received data; and allowing acceptance of the offer by the stores.

Shavit et al. lacks the specific teaching of: receiving daily sales data from stores of a franchise; the suppliers being pre-screened by an independent manager; each offer for product by the suppliers being unsolicited; a charge being required for advertising; charging the suppliers for access to the sales data; and the criteria for pre-screening being a supplier performance characteristic.

The manual discloses a manager's responsibilities in managing a supply chain and specifically teaches on page 599 (2nd complete paragraph) that firms often include "actual point-of-sale data" in EDI (Electronic Data Interchange).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Shavit et al. to have the supply chain management computer receive sales data from stores, in view of the cited "Production and Operations Management" manual, in order to "lower production costs through lower buffer inventories and more efficient scheduling" (Production and Operations Management, page 599, lines 18-19).

It would have been an obvious design choice at the time of the invention to have the independent stores be of a franchise supply chain as these types of businesses are well known to engage in the buying and selling of products from a variety of suppliers.

It would have been a further obvious design choice at the time of the invention to have the independent manager/agent pre-screen the suppliers as it is well known in business to contract out some work to an agent.

Salvo et al. '271 teach a similar supply chain management system whereby the vendor (i.e., supplier) offers product without solicitation in a "vendor controlled inventory management system" (See for example, Salvo Col. 9, lines 33-58); and the vendors/suppliers are screened by performance data (See Col. 11, lines 5-17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Shavit et al. to have the product offer by suppliers be unsolicited and to have suppliers screened based on performance, in view of Salvo et al., in order to supply product to the store in desired amounts as needed without the costs of ordering (See Salvo et al. Col. 9, lines 33-58), and to increase quality (See Salvo et al., Col. 11, line 15).

It would have been an obvious design choice at the time of the invention to include a charge for advertising and to charge the suppliers for access to the sales data, as various charges are well known in e-commerce in order to pay for costs associated with maintaining the network framework and to provide additional revenue to stores.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. However, the Examiner will attempt to address some of the applicant's concerns.

On page 7 of the response, the applicant requests that the Examiner provide references to substantiate the use of an "obvious design choice". However, the applicant has failed to properly traverse the use of "design choice" in that the applicant has not provided a statement stating that the design choice is in some way inaccurate or incorrect. Therefore, the use of a design choice remains proper and the rejection is maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9327 for after-final communications.

F. Zeender
Primary Examiner, A.U. 3627
June 23, 2004



6/23/04